California Victim Compensation and Government Claims Board Hearing Procedure Regulations for Victim Compensation Program and Indemnification of Citizens Benefiting the Public Title 2, §§ 647.1 – 647.38

INITIAL STATEMENT OF REASONS

Government Code section 13950 requires that the Victim Compensation and Government Claims Board (Board) "assist residents of the State of California in obtaining compensation for the pecuniary losses they suffer as a direct result of criminal acts." The current hearing procedure regulations for Victim Compensation Program and Indemnification of Citizens Benefiting the Public are outdated; therefore, the Board proposes new and amended regulations to reflect the current law and existing Board practices regarding the conduct of these hearing (hereafter referred to as VCP hearings). The rulemaking also revises language to Plain English to clearly describe the hearing procedures for applicants and representatives.

The Board is proposing the repeal of Section 647.25, because all VCP hearings are informal in that they are not governed by the Administrative Procedures Act.² This regulation will be replaced by new Section 647.25 Hearings by Electronic Means. The Board is also proposing additional new regulations, including duty to furnish correct address, proposed decision by hearing officer, and action of proposed decision by the Board. The new regulations incorporate language from the General Hearing Procedures found in California Code of Regulations, title 2, article 2.5 ("General Hearing Procedures") that apply to the victim hearings to include commonly used terminology for these hearings and proper citations. This reorganization of the regulation provides for better organization and easier reference by applicants and representatives.

Finally, the Board proposes the repeal of section 647.34, Copies of Submitted Materials, as it is no longer necessary for applicants to submit multiple copies of documents.

The specific purpose of each amendment or proposed regulation, and the reasons that the amendment or proposed regulation is necessary, together with a description of the public problem, is described in the information below.

Section 647.1 Applicability

Authority and Reference

Pursuant to Government Code sections 11400.20, 13920, and 13974, the Board has authority to adopt necessary regulations for the Victim Compensation Program. This rulemaking action is intended to further implement, interpret, and/or make specific Government Code sections 13959 and 13973.

¹ These include hearings for the victims of crime, minor witnesses, and indemnification by persons benefiting the public. (Cal. Code Regs., tit. 2, § 647.1.) Because all applications are handled by the Victim Compensation Program, these hearings will be referred to as "VCP hearings" in this rulemaking action.

² Cal. Code Regs., tit. 2, § 615.1

Rationale

It was necessary to make revisions to clarify that these hearing procedures also apply to an application for assistance as a minor witness under Government Code section 13957(a)(2)(B)(iii), which is a unique status under the VCP. It is also necessary to revise the language to plain English and to reflect terms that are commonly used by the Program.

Specific Purpose of Regulation

- (a)(1) It is necessary to revise "victims of crime" to "Victim Compensation Program" because this is the commonly used name for the Program.
- (a)(2) It is necessary to note that applications as a minor witness are also entitled to hearing under these procedures to clarify that the hearing process is the same for minor witnesses as it is for other applicants.
- Current (a)(2) It is necessary to renumber because a new subsection was added.

Section 647.2 Applicable Law

Authority and Reference

Pursuant to Government Code sections 11400.20, 13920, and 13974, the Board has authority to adopt necessary regulations for the Victim Compensation Program. This rulemaking action is intended to further implement, interpret, and/or make specific Government Code sections 11420.10(c), 11425.10(a)(2), 11465.70(c), 13959, and 13973.

Rationale

It was necessary to make revisions to include language from the General Hearing Procedures, section 615.1, to clarify that VCP hearings are not governed by the Administrative Procedures Act, and for easier reference by applicants and representatives.

- It is necessary to revise the title in order to appropriately reflect applicable law, including the applicable regulations.
- (a) –(c) Currently, these provisions which apply to hearings conducted by the Board are found under the General Hearing Procedures, section 615.1. It is necessary to restate these provisions under section 647.2 so that applicants and representatives understand the law as it relates to VCP hearings and for easier reference.

Section 647.3 Definitions

Authority and Reference

Pursuant to Government Code sections 11400.20, 13920, and 13974, the Board has authority to adopt necessary regulations for the Victim Compensation Program. This rulemaking action is intended to further implement, interpret, and/or make specific Government Code sections 13952(d), 13952(d), 13959, and 13973.

Rationale

It was necessary to make revisions to include language from the General Hearing Procedures, section 615.2, to clarify the definitions for commonly used terminology for these hearings.

Specific Purpose of Regulation

- (a)(2) It is necessary to replace the term "party" with the commonly used term "applicant" for clarity.
- (a)(3) It is necessary to define an application for purposes of the hearing regulations for clarity as there are three different applications used for victims and derivative victims, minor witnesses, and person benefiting the public, respectively.
- (a)(4) and (5) It is necessary to restate the definitions which apply to hearings conducted by the Board that are found under the General Hearing Procedures, section 615.2, to clarify which definitions apply to VCP hearings and for easier reference and clarity by applicants and representatives.
- (a)(b) It is necessary to define "shall" so that applicants and representatives understand that refers to actions that are mandatory.
- It is necessary to revise the reference from 13957.7(g) to 13952(d) to reflect the correct government code that is clarified by the regulation. Government Code section 13952(d) addresses that an attorney may be an applicant's representative and is the correct citation.

Section 647.4 Consideration of Applications and Supplemental Claims

Authority and Reference

Pursuant to Government Code sections 11400.20, 13920, and 13974, the Board has authority to adopt necessary regulations for the Victim Compensation Program. This rulemaking action is intended to further implement, interpret, and/or make specific Government Code sections 13956, 13958, and 13959.

Rationale

The amendment is necessary to ensure that the applicants understand the manner in which applications and supplemental claims are considered. The amendments clarify the Board's current practice that supplemental claims are considered in the same manner as applications. It also deletes those portions of the regulations that duplicate

the statute and describes the process in a more simple and direct manner. It also revises the notice to be provided to applicants regarding the denial of an application or claim to be in plain English and a font that is easier to read.

Specific Purpose of Regulation

- It is necessary to revise the title to reflect that supplemental claims are treated in the same manner as applications.
- It is necessary to re-letter subsections (a)-(f) because various sections were deleted and new sections were added.
- It is necessary to delete the current subsection (a) in its entirety because Government Code section 13958 includes this language.
- It is necessary to delete the current subsection (c) in its entirety because
 Government Code section 13959(d) only requires the Board to send notice of a
 hearing for a denial and it is unnecessary to send a hearing notice if benefits are
 approved.
- Amended subsection (b) is revised to plain English for clarity, including revising the required notification to applicants regarding their appeals rights so that it can be more easily understood.
- Amended subsection (c) is revised to plain English for clarity and moved some language to subsection (d) for better organization of the regulation.
- It is necessary to delete language regarding the location of hearings in current subdivision (f) because it restates the language of Government Code section 13959(f). It is also necessary to delete language regarding setting a hearing because the notice of a hearing and right to a hearing are addressed in separate regulations beginning at California Code of Regulations, title 2, sections 647.20 and 647.21.
- Amended subsection (d) includes language from the current subsection (e) for better organization of the regulation and easier reference.
- It is necessary to delete the reference to Government Code section 13960 regarding writs of mandate because it does not relate to the subject of the regulation.

Section 647.5 Duty to Furnish Correct Address

Authority and Reference

Pursuant to Government Code sections 11400.20, 13920, and 13974, the Board has authority to adopt necessary regulations for the Victim Compensation Program. This rulemaking action is intended to further implement, interpret, and/or make specific Government Code sections 13959 and 13973.

Rationale

Government Code section 13959 requires the Board to send applicants and representatives a notice of a hearing. It is necessary to revise section 647.5 to include language from the General Hearing Procedures, section 616.2, to clarify that applicants and representatives have a duty to provide the proper address for VCP hearings and for easier reference by applicants and representatives.

Specific Purpose of Regulation

- (a) It is necessary for the applicant to provide the correct address so that the Board can ensure that the applicant receives proper notice of a hearing.
- (b) It is necessary for the representative to provide the correct address so that the Board can ensure that the representative receives proper notice of a hearing.
- (c) It is necessary for the applicant to provide the correct address so that the Board can ensure that the applicant receives proper notice of a hearing.

Section 647.20 Right to Hearing

Authority and Reference

Pursuant to Government Code sections 11400.20, 13920, and 13974, the Board has authority to adopt necessary regulations for the Victim Compensation Program. This rulemaking action is intended to further implement, interpret, and/or make specific Government Code sections 13957.2(a), 13959, 13965, and 13973.

<u>Rationale</u>

It was necessary to clarify the instances where an applicant has a right to a VCP hearing.

- (a)(1) It is necessary to revise wording in order to clarify language in the subsection.
- (a)(2) It is necessary to delete the determination that an application is incomplete because applicants are only entitled to a hearing under Government Code section 13959 based upon a denial of benefits.
- (a)(3) It is necessary to renumber this subsection to (a)(2) because a subsection was deleted. It is also necessary to note that applicants are entitled to a hearing for supplemental claims.
- (a)(3) It is necessary to add a new (a)(3) to explain that a request for reimbursement of benefits paid is a basis for a hearing.
- (b) It is necessary to explain that the applicants are not entitled to a hearing to
 dispute the rates approved by the Board because a benefit hearing is not the
 appropriate forum for a dispute as to the rate because hearing officers cannot
 address these issues in a benefit hearing.
- It is necessary to delete Government Code section 13952 from the authority and reference section because it does not directly relate to hearings.

Section 647.20.1 Hearing on the Written Record for Failure to State Basis to Grant Relief

Authority and Reference

Pursuant to Government Code sections 11400.20, 13920, and 13974, the Board has authority to adopt necessary regulations for the Victim Compensation Program. This rulemaking action is intended to further implement, interpret, and/or make specific Government Code sections 13959 and 13973.

Rationale

Government Code section 13959 provides that an applicant is entitled to a hearing regarding any staff recommendation to deny compensation in whole or in part. The current language of section 647.20.1 states that the Executive Officer may deny a hearing if a requests fails to state a basis to grant relief, but then describes a hearing on the written record under the General Hearing Procedures, section 617.6. The Board's current legal interpretation and practice is to address these matters as a hearing on the written record. The proposed revision provides that an applicant will have a hearing on the written record if the applicant, after notice, fails to state a basis to grant relief. It is necessary to revise the regulation for consistency with the statute and to clarify the process for applicants and representatives.

Specific Purpose of Regulation

- It is necessary to revise the title to reflect that a hearing will be conducted on the written record to satisfy the requirement of Government Code section 13959.
- (a) It is necessary to specify that a Hearing Officer can make a determination that a hearing be held on the written record for an application or supplemental claim.
- (b) It is necessary to revise to reflect that these are hearings on the written record and to describe the process for determining that the hearing will be on the written record.
- (c)-(d) It is necessary to delete these provisions because they did not clearly explain the hearing process to applicants and representatives.
- (c) It is necessary to add a new subsection (c) to clearly describe the manner that an applicant shows that he or she may be granted relief if they have a hearing that is not limited to the written record.

Section 647.21 Notice of Hearing

Authority and Reference

Pursuant to Government Code sections 11400.20, 13920, and 13974, the Board has authority to adopt necessary regulations for the Victim Compensation Program. This rulemaking action is intended to further implement, interpret, and/or make specific Government Code sections 11445.30(a), 13959(f), and 13973.

Rationale

It was necessary to make revisions to include language from the General Hearing Procedures, section 616.4, as adapted to VCP hearings, for easier reference by applicants and representatives. It is also necessary to delete language that duplicates the statute.

Specific Purpose of Regulation

- It is necessary to delete the first line of the regulation which states that the hearing will be scheduled in a location convenient to the applicant because this is required by the statute.
- (a) It is necessary to state the specific contents of the hearing notice to ensure
 that applicants and representatives have the information that they will need to
 participate in the hearing. It includes language from General Hearing Procedures,
 section 616.4(a), as adapted to the VCP hearings, for better organization and
 easier reference by applicants and representatives. The revised content is to
 provide applicants and representatives with the information that they need to
 participate in a VCP hearing.
- (b) It is necessary to provide 20 calendar days notice of the hearing so that applicants and representatives have sufficient time to prepare for the hearings.

Section 647.22 Information About Hearing Procedures

Authority and Reference

Pursuant to Government Code sections 11400.20, 13920, and 13974, the Board has authority to adopt necessary regulations for the Victim Compensation Program. This rulemaking action is intended to further implement, interpret, and/or make specific Government Code sections 11425.10(a)(2), 13959, and 13973.

Rationale

It was necessary to add language clarifying that information about the hearing procedures will be provided upon request.

Specific Purpose of Regulation

• It was necessary to add and delete particular language to ensure that applicants and representatives receive the hearing procedures upon request.

Section 647.23 Representation of Applicant

Authority and Reference

Pursuant to Government Code sections 11400.20, 13920, and 13974, the Board has authority to adopt necessary regulations for the Victim Compensation Program. This rulemaking action is intended to further implement, interpret, and/or make specific Government Code sections 13959, 13957.7(g), and 13973.

Rationale

It was necessary to make revisions to reflect that an attorney shall not recover attorney fees for representing him or herself.

Specific Purpose of Regulation

• (d) It was necessary to add language to clarify that an attorney shall not recover attorney fees for representing him/herself because allowing this reimbursement would result in disparate treatment between applicants who are attorneys and those that are not. Further, an attorney that represents him/herself does not incur any attorney fees and does not devote any more time and effort to completing the application than a non-attorney applicant to the Program. This also codifies a prior Board precedent decision for easy reference by applicants and representatives.³

Section 647.24 Access to Application Information

Authority and Reference

Pursuant to Government Code sections 11400.20, 13920, and 13974, the Board has authority to adopt necessary regulations for the Victim Compensation Program. This rulemaking action is intended to further implement, interpret, and/or make specific Government Code sections 13952(d), 13959, and 13973.

Rationale

It was necessary to make revisions to reflect that the public may not request applicant information unless authorized by law or ordered by the court.

Specific Purpose of Regulation

- (a)(4) It was necessary to revise the referenced statute to the appropriate statute.
- (c) It was necessary to delete this language because it is redundant with section (a)(7), which requires the authorization to state when it will expire.
- (d) It was necessary to renumber this subsection in order for it to be appropriately numbered within the regulation.
- (e) It was necessary to add language to clarify that the Board will comply with a court order to allow applications or application material to be inspected.
- It is necessary to revise the reference citations from 13957.7(g) to 13952(d) to reflect the correct government code that is the clarified by the regulation. Government Code section 13952(d) addresses the Board recognizing applicant representatives and is the correct citation.

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³ VCGCB, Precedent Decision 98-01 (1998).

Section 647.25 Objection to Informal Hearing Process

Authority and Reference

Pursuant to Government Code sections 11400.20, 13920, and 13974, the Board has authority to adopt necessary regulations for the Victim Compensation Program. This rulemaking action is intended to further implement, interpret, and/or make specific Government Code sections 11445.30, 13959, and 13973.

Rationale

It was necessary to repeal existing regulation and to replace it with a new regulation that more accurately describes the hearing process as explained below. The term informal is confusing because all VCP hearings are informal in that they are not governed by the Administrative Procedures Act.⁴

Specific Purpose of Regulation

• It is necessary to repeal this section in its entirety because the term informal is confusing because all hearings are informal.

Propose New Section 647.25 Hearing by Electronic Means

Authority and Reference

Pursuant to Government Code sections 11400.20, 13920, and 13974, the Board has authority to adopt necessary regulations for the Victim Compensation Program. This rulemaking action is intended to further implement, interpret, and/or make specific Government Code section 11440.30.

Rationale

Most VCP hearings are conducted by telephone rather than in person. The proposed new regulation is based upon language from the General Hearing Procedures, section 617.4 and adapted for a VCP hearing. The proposed regulation codifies the current practices of the Board as they relate to VCP hearings.

Specific Purpose of Regulation

- (a) It is necessary to describe the circumstances under which the Board or a hearing officer may conduct a hearing by telephone or other electronic means to ensure that the matter can be appropriately considered in an electronic hearing.
- (b) It is necessary to explain which individuals may participate in an electronic hearing to ensure that the relevant individuals are present for the hearing.
- (c) It is necessary to explain how an applicant objects to an electronic hearing so that the VCP can reschedule the hearing to take place in person, if necessary.

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⁴ Cal. Code Regs., tit. 2, § 615.1.

Section 647.26 Request for Continuance

Authority and Reference

Pursuant to Government Code sections 11400.20, 13920, and 13974, the Board has authority to adopt necessary regulations for the Victim Compensation Program. This rulemaking action is intended to further implement, interpret, and/or make specific Government Code sections 13959 and 13973.

Rationale

It was necessary to revise language to better reflect the period of time during which a continuance may be requested.

Specific Purpose of Regulation

- (b) It was necessary to change language in the subsection to reflect calendar days and not working days.
- (c) It was necessary to state that a failure of a cellular telephone will not provide
 a basis for a continuance because this occurs frequently and an applicant should
 ensure that the telephone number that he or she provides for a telephone
 hearing is working properly.

Section 647.30 Conduct of Hearing

Authority and Reference

Pursuant to Government Code sections 11400.20, 13920, and 13974, the Board has authority to adopt necessary regulations for the Victim Compensation Program. This rulemaking action is intended to further implement, interpret, and/or make specific Government Code sections 11445.10(a), 11445.20(c), 13959, and 13973.

Rationale

It was necessary to make revisions to clarify the authority of the hearing officer in the conduct of the hearing, including specifying that all oral evidence is record and the hearing officer determines when the record closes.

- (a) It is necessary to explain that the Executive Officer or hearing officer determines whether the hearing is on the written record or includes oral evidence to explain the authority to applicants and representatives.
- (b) It is necessary to delete the language under this subsection because it does
 not apply to the issues that typically arise in these types of hearings. The
 practice of the Board has been to give every victim a telephone or in-person
 hearing, unless there is no authority for the hearing and for which no relief can be
 granted.

- (b) It is necessary to add a new subsection (b) to explain that oral evidence shall be recorded because it is necessary to have a record of the testimony considered at hearing and this is the most cost effective way to memorialize the record.
- (c) It is necessary to add a new subsection (c) to empower the hearing officer to
 determine when the record closes and when they will not consider any other
 evidence so that the hearing officer may exercise his or her discretion to
 determine to close the hearing and write the proposed decision.

Section 647.31 Evidence

Authority and Reference

Pursuant to Government Code sections 11400.20, 13920, and 13974, the Board has authority to adopt necessary regulations for the Victim Compensation Program. This rulemaking action is intended to further implement, interpret, and/or make specific Government Code sections 11425.10(a)(1), 11425.50(c), 13959(e), and 13973.

Rationale

It was necessary to make revisions to include language from the General Hearing Procedures under California Code of Regulations, title 2, article 2.5 for easier reference by applicants and applicant representatives and to revise this regulation to reflect how VCP hearings generally operate.

Specific Purpose of Regulation

- (b) It is necessary to add a new subdivision (b) clarifying that the hearing officer
 determines whether to accept or reject evidence if it is repetitive, irrelevant,
 tangential, of limited probative value, or unreliable so that the hearing officer can
 ensure that the administrative record is clear. Restates applicable language from
 the General Hearing Procedures under California Code of Regulations, title 2,
 article 2.5, section 617.2(b), for easier reference by applicants and applicant
 representatives.
- (b) It was necessary to renumber the current subsection (b) to (c) because a new subsection was added.
- (c) It is necessary to delete the current subsection (c) as objections are not appropriate in this process. The hearing officer then considers the information in the entire record, along with any information presented by the applicant at the hearing.
- (f) It is necessary to restate applicable language from the General Hearing Procedures under California Code of Regulations, title 2, article 2.5, section 617.8 for easier reference by applicants and applicant representatives.

Section 647.32 Burden of Proof

Authority and Reference

Pursuant to Government Code sections 11400.20, 13920, and 13974, the Board has authority to adopt necessary regulations for the Victim Compensation Program. This rulemaking action is intended to further implement, interpret, and/or make specific Government Code sections 13959(e) and 13973, and *Graham v. State Board of Control* (1995) 33 Cal.App.4th 253.

Rationale

It was necessary to include language codifying a precedent decision of the Board that states that, if there is insufficient evidence that the crime identified in the application occurred, the application may still be considered eligible if there is a preponderance of evidence that a qualifying crime occurred to the victim, even if it is not the crime for which the application was submitted. This also codifies a prior Board precedent decision for easier reference.⁵

Specific Purpose of Regulation

(d) It is necessary to state that an application may be approved if there is a
preponderance of evidence that a qualifying crime occurred even if it is not the
crime stated in the application, because victims sometimes have difficulty
describing the qualifying crime and may state an incorrect crime on the
application. This revision would codify a Board precedent decision.⁶

Section 647.33 Exclusion of Public

Authority and Reference

Pursuant to Government Code sections 11400.20, 13920, and 13974, the Board has authority to adopt necessary regulations for the Victim Compensation Program. This rulemaking action is intended to further implement, interpret, and/or make specific Government Code sections 6254.17, 11125.8, 11425.20, 13959, 13959(b), and 13973.

Rationale

Government Code section 13959 states that a victim may request a hearing to be closed if it involves a minor, sexual assault, or domestic violence. However, VCP records and information are, by law, not public records and necessarily involve highly confidential and privileged information. Thus, all VCP hearings should be closed to the public unless the applicant requests otherwise.

Specific Purpose of Regulation

- (a) The revisions specify that all VCP hearings are not open to the public, unless the applicant or authorized applicant representative requests that the hearing be public.
- (c) To provide a safe and orderly forum for the hearing, it is necessary to empower the Board or hearing officer to exclude individuals from a hearing who

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⁵ VCGCB, Precedent Decision No. 01-01 (2001).

⁶ Id

are threatening, abusive, or harassing to Board member, hearing officer, or others.

Propose Repeal of Section 647.34 Copies of Submitted Materials

Rationale

It was necessary to repeal the section in its entirety that requires applicants provide five copies of written materials at hearings because the staff does not need nor want applicants to submit multiple copies of written materials. The Program now uses an electronic filing system and multiple copies of written materials are unnecessary.

Specific Purpose of Regulation

 It is necessary to repeal this section in its entirety so that applicants and representatives are no longer required to provide additional and unnecessary copies.

Section 647.35 Failure to Appear or Proceed

Authority and Reference

Pursuant to Government Code sections 11400.20, 13920, and 13974, the Board has authority to adopt necessary regulations for the Victim Compensation Program. This rulemaking action is intended to further implement, interpret, and/or make specific Government Code sections 13959(e) and 13973.

Rationale

It was necessary to make revisions to clarify that an applicant will be considered to have failed to appear for a scheduled telephone hearing if he or she fails to answer the phone and that a hearing will be based on the material already in the record if the applicant or applicant's representative's cellular phone stops working during a telephone hearing.

- It is necessary to add subsections (a), (b), and (c) for organization of the information in the regulations.
- (b) It is necessary to explain how the hearing officer will handle the hearing when an applicant does not answer the telephone for a scheduled telephone hearing because most hearings are conducted by telephone and this situation can and does arise.
- (c) It is also necessary to address the situation where a cellular telephone stops working during the hearing and the hearing officer is unable to contact the applicant and representative again. It is necessary to inform applicants and representatives of the manner in which these instances will be handled.

Section 647.36 Proposed Decision by Hearing Officer

Authority and Reference

Pursuant to Government Code sections 11400.20, 13920, and 13974, the Board has authority to adopt necessary regulations for the Victim Compensation Program. This rulemaking action is intended to further implement, interpret, and/or make specific Government Code sections 11425.10(a)(6), 11425.50, and 13969.1(a).

<u>Rationale</u>

It was necessary to propose a new regulation to include language from the General Hearing Procedures under Title 2, Article 2.5, section 619.1, as adapted to VCP hearings, for easier reference by applicants and representatives. The proposed regulation codifies the Board's legal authority and current practices for VCP hearings.

Specific Purpose of Regulation

- (a) The Board's current practice is to assign VCP hearings to a hearing officer. It is necessary to allow the hearing officer to take the matter under submission to write the proposed decision, because the Board makes the final decision to adopt or reject the proposed decision.
- (b) It is necessary to specify the contents of the proposed decision to ensure that applicants and representatives understand the basis of the decision.
- (c) It is important for hearing officers to state the basis of a credibility decision to
 ensure that the administrative record is complete and clear. This provision is
 adapted from section 619.1 to apply to VCP hearings, many of which occur by
 phone, to provide that the hearing officer may state any information that is the
 basis of the credibility decision.
- (d) It is necessary to explain the evidence that may be the basis for the proposed decision and to include the reference to the amended section 647.31 for better organization and easier reference by applicants and attorneys.
- (e) It is necessary to restate this provision from section 619.1(e), because it represents the Board's current legal interpretation that this applies to VCP hearings and it is placed here for easier reference by applicants and representatives.
- (f) It is necessary to state that the hearing officer then provides the proposed decision to the Executive Officer so that applicants and representatives understand the process.

Section 647.37 Action on Proposed Decision by Board

Authority and Reference

Pursuant to Government Code sections 11400.20, 13920, and 13974, the Board has authority to adopt necessary regulations for the Victim Compensation Program. This

rulemaking action is intended to further implement, interpret, and/or make specific Government Code sections 11125.8, 11126(c)(3), 11500, 13959, and 13973.

Rationale

It was necessary to propose a new regulation to include language from the General Hearing Procedures, section 619.5, as adapted for VCP hearings, for easier reference by applicants and representatives. Also, it clarifies that the Board considers proposed decisions in closed session.

Specific Purpose of Regulation

- (a), (c), (d) and (f) It is necessary to restate the provisions from the General Hearing Procedures, section 619.5 that apply to VCP hearings to eliminate any confusion regarding which provisions apply to the conduct of the VCP hearings and for easier reference by applicants and representatives.
- (b) It is necessary to state that the Board deliberates regarding the VCP proposed decisions in closed session, as is the current practice, because this is one way in which the VCP hearings differ from other types of hearings.
- (e) It is necessary to restate the provisions from the General Hearing
 Procedures, section 619.5(d)(2) that apply to VCP hearings and to adapt it to the
 VCP hearings by referencing section 647.36 to eliminate any confusion regarding
 which provisions apply to the conduct of the VCP hearings and for easier
 reference by applicants and representatives.

Section 647.38 Requests for Reconsideration

Authority and Reference

Pursuant to Government Code sections 11400.20, 13920, and 13974, the Board has authority to adopt necessary regulations for the Victim Compensation Program. This rulemaking action is intended to further implement, interpret, and/or make specific Government Code sections 13954, 13956, 13959 and 13960.

Rationale

It was necessary to add language for plain English and to reference terminology commonly used by the Program.

Specific Purpose of Regulation

- It was necessary to delete and add language to accurately reflect the phrase "notice of staff recommendation" as currently used by the VCP.
- It is necessary to revise the reference citation from 13959(i) to 13960 to correct the code sections and added an omitted citation.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

The Board did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of these regulations.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES

The Board has determined that there are no other reasonable alternatives to this rulemaking action.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESSES

The Board has no evidence indicating any potential adverse impacts to small businesses as a result of this proposed action.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Board has no evidence indicating any potential significant adverse impact on business as a result of this proposed action.